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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

ASCENDIS PHARMA A/S, ASCENDIS
PHARMA GROWTH DISORDERS A/S, and
ASCENDIS PHARMA, INC.,

Plaintiffs,

v.

BIOMARIN PHARMACEUTICAL INC.,

Defendant.

Case No. 4:25-cv-03302-YGR

**PLAINTIFF ASCENDIS'S STATEMENT
OF NON-OPPOSITION TO
DEFENDANT'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
CASES SHOULD BE RELATED**

Civ. L.R. 7-3(b); Pat. L.R. 2-1

Defendant BioMarin Pharmaceutical, Inc.’s administrative motion to consider whether this case should be related to a subsequent case that Plaintiffs filed involving the same patent (Dkt. No. 46) is entirely unnecessary. This is because the Court’s Patent Local Rule 2-1 controls, not Civil Local Rule 3-12 which BioMarin relies on. Under the applicable Patent Local Rule the two actions already “will be deemed related” without a motion. *See* Pat. L.R. 2-1(a); *see also* Pat. L.R. 1-2. Plaintiffs have no objection to the Court considering whether the two actions should be related—though unnecessary—and so do not oppose the relief BioMarin purports to seek.

Plaintiffs Ascendis Pharma A/S, Ascendis Pharma Growth Disorders A/S, and Ascendis Pharma, Inc. (“Ascendis”) do, however, take issue with and object to (1) BioMarin’s erroneous suggestions that Ascendis failed to comply with the local rules and (2) BioMarin’s transparent attempt to use its “administrative” motion to preview its argument in opposition to another pending motion in the second case: Ascendis’s motion for a mandatory stay under 28 U.S.C. § 1659. Case No. 5:25-cv-5696-PCP, Dkt. No. 25 (N.D. Cal July 21, 2025). The Court need not consider these extraneous arguments and should give them no weight.

In short, Ascendis voluntarily dismissed this action (Dkt. No. 45) and subsequently filed a second action in this Court involving the same patent and raising different issues, Case No. 5:25-cv-05696-PCP. As BioMarin admits, in that second action Ascendis also promptly filed its required Notice of Pendency of Other Action Involving Same Patent, advising the Court of both actions. *See* Case No. 5:25-cv-5696-PCP, Dkt. No. 24 (N.D. Cal July 18, 2025). By rule, these two actions “will be deemed related” and “the Clerk will reassign the related higher-numbered case[] to the Judge assigned to the lowest-numbered case.” Pat. L.R. 2-1(a)(1), (3). This moots the need for an administrative motion like BioMarin’s to “consider” whether the cases should be related under Civil Local Rule 3-12. *See* Pat. L.R. 1-2 (“The Civil Local Rules of this Court shall also apply to such actions, *except* to the extent that they are inconsistent with these Patent Local Rules.”). While the Court thus could deny BioMarin’s motion as moot, Ascendis has no objection to the two actions being related, as Patent Local Rule 2-1(a) directs, and therefore does not oppose the motion, subject to the objections herein.

1 Dated: July 28, 2025

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